


UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
OWENSBORO DIVISION

TAREK ALKHATIB (A ))
)
Petitioner,)
)
v.)
)
KRISTI NOEM, Secretary, U.S. Department of)
Homeland Security; SAMUEL OLSEN, Interim)
Field Office Director, Chicago Field Office,)
Immigration and Customs Enforcement;)
MIKE LEWIS, Jailer, Hopkins County Jail,)
)
Respondents.)

Case No. 4:25-cv-00139

Chief Judge Greg N. Stivers

PETITIONER’S SUPPLEMENTAL BRIEFING REGARDING EXPEDITED REMOVAL

Petitioner submits this Supplemental Briefing Regarding Expedited Removal to clarify that he is not subject to the vacated expedited removal order and remains unlawfully detained during his removal proceedings.

On November 24, 2025, this Court ordered the parties to provide supplemental briefing on whether Petitioner is subject to expedited removal proceedings pursuant to 8 U.S.C. § 1225. Petitioner maintains that he is neither in expedited removal proceedings under 8 U.S.C. § 1225(b)(1), nor detained under the expedited removal statute under 8 U.S.C. § 1225(b)(2). Petitioner is currently undergoing “full immigration proceedings” pursuant to 8 U.S.C. § 1229a and is detained under 8 U.S.C. § 1226(a).

I. Petitioner is in 8 U.S.C. § 1229a removal proceedings, and not in 8 U.S.C. § 1225(b)(1) expedited removal proceedings.

Petitioner is not presently in expedited removal proceedings. This Court recently affirmed that a noncitizen cannot simultaneously be in standard removal proceedings (Section 1229a) and expedited removal proceedings (Section 1225(b)(1)). *Patel v. Tindall*, No. 3:25-CV-373-RGJ,

2025 WL 2823607, at *3 (W.D. Ky. Oct. 3, 2025). At footnote 1 in Respondents' response, Respondents correctly outline how a noncitizen may initially be placed in expedited removal proceedings, and then later put into standard removal proceedings after demonstrating a credible fear of returning to their home country. Dkt. 18, PageID# 127, FN1; *see also Patel*, No. 3:25-CV-373-RGJ, 2025 WL 2823607, at *4; 8 C.F.R. §§ 235.3(b), 208.30(f)-(g). While Petitioner was originally in expedited removal proceedings, an Immigration Judge found he possessed a credible fear of persecution if returned to Syria, his home country, and vacated Petitioner's expedited removal order, placing him in standard removal proceedings. 8 C.F.R. § 208.30(f).

The facts of Petitioner's case align with the District of Columbia's analysis in *Coalition for Humane Immigrant Rights v. Noem*. While this case primarily discussed parolees, the court reviewed the relationship between Section 1229a and Section 1225(b)(1) proceedings, ultimately acknowledging that Section 1225 proceedings can lead to further expedited or regular removal proceedings. *Coal. For Humane Immigrant Rts. v. Noem*, No. 25-CV-872 (JMC), 2025 WL 2192986, at *26 (D.D.C. Aug. 1, 2025) (on appeal).¹ Thus, in the present case, even though Petitioner began in Section 1225(b)(1) expedited removal proceedings, he is now in Section 1229a removal proceedings.

II. Petitioner is detained under 8 U.S.C. § 1226(a).

Petitioner entered the U.S. in 2022 without inspection. Dkt. 1, PageID# 1, ¶ 2. Similar to previous decisions within the Sixth Circuit regarding which is the correct detention statute Petitioner is detained under, Petitioner did not "seek" admission at a port of entry. *Hernandez Alonso v. Tindall et al.*, 2025 WL 3083920 (W.D. Ky. Nov. 4, 2025). Notably, Petitioner was

¹ Petitioner agrees with Respondents that *Make the Road New York v. Noem*, No. 25-CV-190 (JMC), 2025 WL 2494908, at *12-18 (D.D.C. Aug. 29, 2025) does not provide guidance over Petitioner's circumstances since he is not in expedited removal proceedings.

issued bond in 2022, demonstrating he is not subject to Section 1225(b)(2), which does not allow noncitizens to be released on bond. *See e.g., Orellana v. Noem*, 4:25-cv-112-RGJ, 2025 WL 3006763, *1 (W.D. Ky. Oct. 27, 2025). Additionally, the Notice of Custody Determination provided to Petitioner indicates that Petitioner is detained “[p]ursuant to the authority contained in section 236 of the Immigration and Nationality Act and part 236 of title 8, Code of Federal Regulations.” Dkt. 1-3, PageID# 30.

The Sixth Circuit and courts around the country continue to hold that petitioners, like Mr. Alkhatib, are subject to detention under 8 U.S.C. § 1226(a) and eligible for either immediate release or a bond hearing. *See Salinas v. Woosley*, No. 4:25-CV-121-DJH, 2025 WL 3243837 (W.D. Ky. Nov. 20, 2025); *Lopez v. Olson*, No. 3:25-CV-654-DJH, 2025 WL 3217036 (W.D. Ky. Nov. 18, 2025); *Moyao Roman v. Olson*, No. CV 25-169-DLB-CJS, 2025 WL 3268403 (E.D. Ky. Nov. 24, 2025); *Godoy Bermudez v. Lynch*, No. 1:25-CV-1357, 2025 WL 3264437 (W.D. Mich. Nov. 24, 2025); *Huaman-Rodriguez v. Lynch*, No. 1:25-CV-1330, 2025 WL 3267768 (W.D. Mich. Nov. 24, 2025); *Maya Ramirez v. Lynch*, No. 1:25-CV-1408, 2025 WL 3267771 (W.D. Mich. Nov. 24, 2025); *Rodriguez Quezada v. Noem*, No. 1:25-CV-1441, 2025 WL 3267784 (W.D. Mich. Nov. 24, 2025); *Soto-Medina v. Lynch*, No. 1:25-CV-1392, 2025 WL 3267761 (W.D. Mich. Nov. 24, 2025); *Unaicho-Castro v. Unknown Party*, No. 1:25-CV-1318, 2025 WL 3264436 (W.D. Mich. Nov. 24, 2025); *Delcid v. Noem*, No. 1:25-CV-1366, 2025 WL 3251139 (W.D. Mich. Nov. 21, 2025); *Delgado Delgado v. Noem*, No. 1:25-CV-1249, 2025 WL 3251144 (W.D. Mich. Nov. 21, 2025); *Petit Oropeza v. Noem*, No. 1:25-CV-1343, 2025 WL 3251140 (W.D. Mich. Nov. 21, 2025); *Castro Melgar v. Noem*, No. 1:25-CV-1377, 2025 WL 3240058 (W.D. Mich. Nov. 20, 2025); *Castro Sanchez v. Noem*, No. 1:25-CV-1361, 2025 WL 3237435 (W.D. Mich. Nov. 20, 2025); *Soto Beltran v. Raycraft*, No. 1:25-CV-1352, 2025 WL 3237429

(W.D. Mich. Nov. 20, 2025); *Vera Curillo v. Noem*, No. 1:25-CV-1340, 2025 WL 3235737 (W.D. Mich. Nov. 20, 2025); *Ceballos Ortiz v. Raycraft*, No. 1:25-CV-1328, 2025 WL 3223771 (W.D. Mich. Nov. 19, 2025); *Hernandez Franco v. Raycraft*, No. 1:25-CV-1274, 2025 WL 3223780 (W.D. Mich. Nov. 19, 2025); *Martinez v. Unknown Party*, No. 1:25-CV-1298, 2025 WL 3223774 (W.D. Mich. Nov. 19, 2025); *Nava Ibarra v. Noem*, No. 1:25-CV-1335, 2025 WL 3223765 (W.D. Mich. Nov. 19, 2025); *Orozco-Martinez v. Lynch*, No. 1:25-CV-1353, 2025 WL 3223786 (W.D. Mich. Nov. 19, 2025); *Yac Pastor v. Raycraft*, No. 1:25-CV-1301, 2025 WL 3223777 (W.D. Mich. Nov. 19, 2025); *Juarez Mendez v. Raycraft*, No. 1:25-CV-1323, 2025 WL 3214100 (W.D. Mich. Nov. 18, 2025); *Amigon Cardona v. Unknown Party #1*, No. 1:25-CV-1287, 2025 WL 3200682 (W.D. Mich. Nov. 17, 2025); *Martinez Guerra v. Noem*, No. 1:25-CV-1341, 2025 WL 3204289 (W.D. Mich. Nov. 17, 2025); *Orellana v. Noem*, No. 1:25-CV-1333, 2025 WL 3198685 (W.D. Mich. Nov. 17, 2025); *Sevilla v. Noem*, No. 1:25-CV-1325, 2025 WL 3200698 (W.D. Mich. Nov. 17, 2025); *Hurtado-Medina v. Raycraft*, No. 25-CV-13248, 2025 WL 3268896 (E.D. Mich. Nov. 24, 2025); *Kadagan v. Raycraft*, No. 25-13602, 2025 WL 3268895 (E.D. Mich. Nov. 24, 2025); *Romero Garcia v. Raycraft*, No. 25-CV-13407, 2025 WL 3252286 (E.D. Mich. Nov. 21, 2025); *Robledo Gonzalez v. Raycraft*, No. 25-13502, 2025 WL 3218242 (E.D. Mich. Nov. 17, 2025).

Therefore, Petitioner is subject to Section 1226(a)'s discretionary detention scheme.

III. Petitioner's immediate release is an appropriate remedy in these circumstances.

This court has the authority to order Petitioner's immediate release, and this remedy is appropriate in these circumstances. Petitioner has been detained since May 12, 2025, over six months despite having no criminal history. Dkt. 13-1, PageID# 84-85. Courts within the Sixth Circuit have repeatedly held that when a noncitizen's detention is a violation of their Fifth

Amendment right to Due Process, release subject to supervision is appropriate. *Toma v. Adducci*, 535 F. Supp. 3d 651, 659 (E.D. Mich. April 23, 2021) (petitioner ordered released); *Rosciszewski v. Adducci*, 983 F. Supp. 2d 910, 917 (E.D. Mich. Nov. 14, 2013) (respondents ordered to provide petitioner with a bond hearing within 10 days or immediate release); *Malam v. Adducci*, 452 F. Supp. 3d 643, 662-63 (E.D. Mich. April 6, 2020) (petitioner ordered release on her own recognizance and respondents restrained from arresting Petitioner for civil immigration detention purposes).

Respondents argue that Petitioner should be put “in the position he would have been in had the alleged violation never occurred.” Dkt. 18, PageID# 129. Petitioner seeks relief from his unlawful detention. Dkt. 1, PageID# 2, ¶ 8. Putting Petitioner back to his original position would be allowing Petitioner to be free.

Conclusion

For the foregoing reasons, this Court should order Respondents to release Petitioner or to schedule a bond hearing for Petitioner’s removal proceedings within 5 days of the order and accept jurisdiction to issue a bond order.

Dated: December 2, 2025

Respectfully Submitted,
TAREK ALKHATIB

By: s/ Maya A. Flores
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Certificate of Service

I hereby certify that on December 2, 2025, I filed this document via CM/ECF, which will automatically provide service to all counsel of record.

/s/ Maya A. Flores